IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE NINETEENTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION NO : 8263, 9357 and 9359 of 2004

WRIT PETITION NO. 8263 OF 2004.

Between:

1 S.S. Karri S/o. Late K.S. Sarma, Vizianagaram.
2 K.S. Sarma S/o. S.S. Karri, Vizianagaram.

..... PETITIONER(S)

AND

1 Deputy Registrar of Co-Operative Societies, Vizianagaram, Vizianagaram Dist.
2 The East Coast Railway Employees Consumer Co-Operative Stores Limited, rep. by its Secretary, Regd. No. B-1380, Vizianagaram.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of Mandamus, or any other appropriate writ,order or direction, declaring the action of the respondent in passing the impugned order in Rc. No.3/3125/2002-C, Dt. 29.3.2004 in as illegal, arbitrary and violative of principles of natural justice and for a consequential order directing the respondents to drop all further proceedings pursuant to the said impugned order.

Counsel for the Petitioners: MR.CH.DHANAMJAYA

Counsel for the Respondent No1: GP FOR COOPERATION

Counsel for 2nd respondent: Mr. Taddi Nageswararao.

The Court made the following :

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WRIT PETITION NO : 9357 of 2004

Between:

1 S.S. Karri, S/o. Late K.S. Sarma, Hindu, R/o. Vizianagaram.
2 K.S. Sarma, S/o. S.S. Karri,Hindu, R/o. Vizianagaram. **....**

Petitioners.

AND

1 Deputy Registrar of Co-operative Societies, Vizianagaram, Vizianagaram District.
2 The East Coast Railway Employees Consumers Co-operative Stores Limited, Rep. by its Secretary, Regd. No. B-1380, Vizianagaram.

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Mandamus, or any other appropriate Writ, order or direction, declaring the action of the respondent in passing the impugned order in Rc.No. 1/3125/2002-C, dt. 29-3-2004 in as illegal, arbitrary and violative of principles of natural justice and for a consequential order directing the respondents to drop all further proceedings pursuant to the said impugned order

Counsel for the Petitioner: MR.CH.DHANAMJAYA

Counsel for the Respondent No1: GP FOR COOPERATION

Counsel for 2nd respondent: Mr. Taddi Nageswararao.

The Court made the following :

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WRIT PETITION NO : 9359 of 2004

Between:

S.S.Karri S/o K.S. Sarma, Vizianagaram

..... PETITIONER

AND

1 Deputy Registrar of Co-opeative Socieites, Vizianagaram
Vizianagaram Dist
2 The East Coast Railway Employees Consumers Co-Operative Stores Limited
rep.by its Secretary, Regd.No. B-1380 Vizianagaram

.....RESPONDENT(S)

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ of Mandamus, or any other appropriate writ, order or direction, declaring the action of the respondent in passing the impugned order in Rc.No.2/3125/ 2002-C, dt. 29/03/2004 in as ilelgal, arbitrary, and violative of principles of natural justice and for a consequential order directing the respondents to drop all further proceedings pursuant to the said impugned order.

Counsel for the Petitioner: MR.CH.DHANAMJAYA

Counsel for the Respondent No1: GP FOR COOPERATION

Counsel for 2nd respondent: Mr. Taddi Nageswararao.

The Court made the following :

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ORDER:

Heard both the learned counsel and at their request, these writ petitions are taken up for disposal at the stage of Interlocutory Applications.

Petitioners are all employees of the respondent-Society filed these wruit petitions, inter alia, seeking to assail the surcharge proceedings issued under Section 60 of the A.P. Co-operative Societies Act. The main grievance of the petitioners is that they were not given proper opportunity and that even the surcharge notice dated 8-7-2003 was served on them on 8-9-2003. No opportunity was given to them in the enquiry. Therefore, the impugned order passed on 29-3-2004 cannot be stated to be legal and in fact there is direct violation of principles of natural justice.

Learned Government Pleader for Cooperation and also standing Counsel on behalf of the respondents strenuously contend that having regard to the fact that the there is an effective alternative remedy of appeal against the impugned order under Section 76 of the Act before the Co-operative Tribunal, this Court cannot entertain these writ petitions.

Having heard the submissions made on either side and on perusal of the material on

record, it is seen that there cannot be any dispute in regard to the alternative remedy of appeal against the impugned order under Section 76 of the Act, wherein the petitioners can raise all the grounds and the Tribunal can go into the same since it being first appeal and give proper findings. If it is found by the Tribunal that no proper opportunity was given to the petitioners in the enquiry, the Tribunal can remand the matter to the concerned authority.

Accordingly, these writ petitions are dismissed with liberty to the petitioners to file appropriate appeal within a period of three weeks from today and on such filing of the appeal, the Tribunal shall dispose of the same within two months thereafter. It is needless to mention that the respondents shall not proceed with recovery and shall not coercive steps till the disposal of the appeal. No costs.

19—11—2004.

Stv/-

To

1 Deputy Registrar of Co-Operative Societies, Vizianagaram, Vizianagaram Dist.
2 The East Coast Railway Employees Consumer Co-Operative Stores Limited, rep. by its Secretary, Regd. No. B-1380, Vizianagaram.

3. Two C.Cs to the Government Pleader for Co-operation, High Court buildings, Hyd (OUT)

4. Two C.D. Copies.